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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,756	12/31/2001	William G. Reeves		6291

23556 7590 09/09/2004

KIMBERLY-CLARK WORLDWIDE, INC.
401 NORTH LAKE STREET
NEENAH, WI 54956

EXAMINER

CHANG, VICTOR S

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/038,756	REEVES ET AL.	
	Examiner	Art Unit	
	Victor S Chang	1771	

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Introduction

1. The Examiner has carefully considered Applicants' amendments and remarks filed on 7/14/2004. Applicants' amendments to claims 8, 12, 13 and 15 have been entered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Rejections not maintained are withdrawn. In particular, in view of newly amended claim 8 which deletes the phrase "pores on the surface of the sheet are substantially closed celled", the rejections in sections 5 and 6 of Office action dated 4/14/2004 are withdrawn. However, the amendment required a new search, and Applicants' arguments are moot in view of the new grounds of rejection as follows.

Rejections Based on Prior Art

4. Claims 1-7, 9, 10 and 12-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Battista et al. (US 3954493), substantially for the reasons set forth in section 7 of Office action dated 4/14/2004, together with the following additional observations.

With respect to Applicants' argument "Battista et al. discloses a compressed, commercially available regenerated cellulose sponge ... in contrast, applicants' invention is directed to a high quality regenerated carbohydrate foam ... produced from

materials such as mixed office waste or pure chitin" (page 2 of Remarks, bottom paragraph), the Examiner repeats (see page 5 of Office action dated 4/14/2004) that Battista teaches regenerated sponges at least as claimed in independent claim 1, and Applicants still fail to provide persuasive evidentiary support that their process produce chemically or structurally distinct sponge. As to the quality of the source of the raw materials for regenerated cellulose sponge, they are not recited in any claims. Further, it is the Examiner's position that a selection of pure raw material would have been either anticipated by Battista, or an optimization to one skilled in the art of regenerated cellulose sponge, motivated by the desire to obtain a suitable improved sponge for intended applications.

With respect to Applicants' argument "Applicants' foam products have controllable pore size and connectedness ..." (page 3 of Remarks, middle paragraph), the Examiner again notes that Applicants argue limitations which are absent from any of the claims.

Similarly, the Examiner notes that Applicants' arguments "a cellulose sponge of Battista ... would have different properties ..." (page 4 of Remarks, first full paragraph) lack evidentiary support, such as comparative experimental results or evidence showing Battista's teaching is limited to certain properties, and also Applicants' argument appears to be not commensurate with the scope of instantly claimed invention, as set forth above.

Finally, with respect to Applicants' closing remark "It is believed that the rebuttal evidence and arguments above can indeed be found in the specification, and

references have been provided where appropriate" (page 5 of Remarks, second paragraph), the Examiner repeats (see page 5 of Office action dated 4/14/2004) that Applicants' arguments are deficient in providing sufficient evidentiary support that the instantly claimed invention is structurally or chemically distinct over the prior art, as set forth above.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Battista et al. (US 3954493) in view of Silver et al. (US 4970298).

The teachings of Battista are again relied upon as set forth above.

Battista lacks a teaching that the surface pore size and morphology of the carbohydrate foam can be modified by freeze drying. However, it is noted that Silver's invention is directed to a biodegradable collagen matrix (carbohydrate foam) having a pore size and morphology which enhances the healing of a wound (Abstract). Silver teaches that a collagen sponge having a desired pore and channel structure is formed by freeze-drying, the pores and channels are permanently formed within the matrix by cross-linking and the sponge in its final form is obtained by the additional freeze-drying step to reform collapsed pores and channels (column 4, lines 57-63). As such, in the absence of unexpected results, it would have been obvious to one of ordinary skill in the art to modify the surface pore size and morphology of Battista's foam by additional freeze drying, as taught by Silver, motivated by the desire to obtain a foam structure suitable for wound dressing.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In addition, the following references are cited of interest for making freeze dried wound dressing:

US 5755814 to Berg et al.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S Chang whose telephone number is 571-272-1474. The examiner can normally be reached on 8:30 - 5:00.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Use
Victor S Chang
Examiner
Art Unit 1771

8/25/2004


TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700